

REMARKS

This Amendment After Final is in response to the Office Action mailed February 10, 2004. It is believed that no fees are necessary in connection with the present Amendment After Final. However, in the event any fees are due, kindly charge the cost thereof to our Deposit Account No. 13-2855.

The Applicants amended the paragraph beginning on page 9, line 31 of the Specification by changing "protective layer 14" in line 32 to -- protective covering layer 14 --. This amendment is supported by the application as originally filed, for example on page 10, line 9, and corrects a typographical omission. Claim 12 has been amended to depend from claim 11, instead of claim 12, to correct a typographical error. No new matter has been added by these amendments.

Objection to Specification

The Specification was objected to for including an improper incorporation by reference to U.S. Patent No. 5,492,943, which itself incorporates by reference another patent or application. In response, the Applicants amended the Specification by deleting the reference to U.S. Patent No. 5,492,943 in the paragraph beginning on page 8, line 7.

35 U.S.C. § 102 Rejections

Claims 1-3 and 5-12 are rejected as being allegedly anticipated by Jensen, U.S. Patent No. 5,827,213. Claims 1 and 7, as amended, now recite that the first surface of the adhesive body is *non-planar and shaped* to match the contour of the treatment area for adhesively engaging and covering the treatment area. In contrast, the first surface (13b) of Jensen '213 is planar (see, e.g., Fig. 2 and col. 2, line 66 to col. 3, line 1 ("Figs. 1 and 2 depict the dressing in a generally flat or planar condition as it would be supplied to the user.")); and is not shaped to match the contour of a treatment area, but rather, must be manipulated by the user (by folding) to adapt the planar dressing to a non-planar anatomical surface.

While it is indicated in the Office Action that Jensen discloses a second surface adapted to match a support surface upon which the treatment area would contact in the absence of the orthotic pad, based on Figures 2 and 6, it is respectfully submitted that Figure 2 of Jensen does not show the dressing in a wearable condition, and while Figure 6 of Jensen does show the dressing of that reference in a wearable condition, the bottom of the wound dressing is not flat to match the contact surface with the ground, as is indicated in the Office Action. Rather, only a focused point of contact at the bottom of the heel would contact the ground.

Instead of distributing the wearer's weight over substantially the entire bottom of the pad, as is accomplished by the Applicants' claimed "second surface being adapted to match a support surface upon which the treatment area would contact in the absence of said orthotic pad," the Jensen dressing concentrates the wearer's weight directly at the point of contact between the heel and the ground. Unlike the planar second surface of the adhesive body of the Applicants' claims, the second surface (13a) of Jensen follows the contour of the first surface (13b) when in the wearable condition shown in Fig. 6. As such, if (as discussed in column 5, lines 42-43 of Jensen) a wound were located in position x of Jensen, only a small portion of the second surface of the adhesive body would match the back of a wearer's shoe, for example, with no support for the remainder of position x.

35 U.S.C. § 103 Rejections

Claim 4 was rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Jensen '213, as applied to claim 1 or 2, in view of an Official Notice that the protective layer can be made of any material that would allow for its release from the adhesive layer but would protect the adhesive layer from tears, indentations and dirt, including flexible, rigid or semi-rigid material. It is respectfully submitted that claim 1, as amended, is allowable over Jensen '213, and inasmuch as claim 4 depends from claim 1, and as such, includes all

limitations of claim 1 by reference, claim 4 is also believed to be in condition for allowance.

The rejection is therefore believed moot, and withdrawal of the rejection is requested.

CONCLUSION

In view of the foregoing, it is submitted that all claims, as amended and pending in the application, are now in condition for allowance. The Examiner's early reconsideration and favorable action are respectfully requested. In the event the Examiner has any questions that might be easily resolved by telephone, he is invited to contact the Applicants' undersigned representative at (312) 474-6300.

Dated: May 3rd, 2004

Respectfully submitted,



Jeremy R. Kriegel
Reg. No. 39,257

MARSHALL, GERSTEIN & BORUN LLP
233 South Wacker Drive, Suite 6300 Sears Tower
Chicago, Illinois 60606-6357
Telephone: (312) 474-6300
Facsimile: (312) 474-0448